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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,147	12/15/2005	Richard Bates	06007/40002	4807

7590 06/18/2008
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Chicago, IL 60606-6357

EXAMINER

UNDERWOOD, DONALD W

ART UNIT	PAPER NUMBER
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3652

MAIL DATE	DELIVERY MODE
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06/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/534,147

Applicant(s)

BATES, RICHARD

Examiner

Donald Underwood

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2008 and 01 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 11-16, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/24/08 has been entered.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 6, 8, 11, 13, 14, 16, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck in view of Kobayashi, et al. and Tellden.

It would have been obvious to mount the excavating arm in Beck to pivot about a vertical axis to provide more flexibility in view of the teaching in Kobayashi (axis X1).

It would have been obvious to provide a stop pin and stop arms to the turntable in Beck to control the pivoting arc in view of the teaching in Tellden (column 4, lines 1-10). Note Tellden teaches placing stops to provide any desired rotation radius.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beck in view of Kobayashi, et al. and Tellden as applied to claim 1 above, and further in view of the following comments.

Note the use of two properly placed stop arms would provide a lock. See Tellden (column 4, lines 8-10).

Claims 5, 7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck in view of Kobayashi, et al. and Tellden as applied to claim 1 above, and further in view of Brown.

It would have been obvious to provide mudguards in Beck in view of the teaching in Brown (figure 10).

It would also have been obvious to substitute a sloping hood and single arm for the hood and arm in Beck in view of the hood and arm in Brown to provide more visibility for the driver in Beck.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beck in view of Kobayashi, et al. and Tellden as applied to claim 1 above, and further in view of Hayward.

It would have been obvious to substitute telescoping arms for the arms in Beck in view of the teaching in Hayward (figure 2) to provide more reach to the arms in Beck.

The arguments, together with the declaration, have been carefully considered but are not deemed persuasive. The sensors 108 in Beck are used to prevent the bucket and/or boom from hitting the engine compartment. However, the addition of a stop pin and stop arms similar to stop 6 and stop arms 7, respectively, in Tellden would be used to arbitrarily limit the range in a simple manner for adaptation to conditions at the work location as in done in Tellden. This would not destroy Beck but add a new feature. The old operation would still be available by not placing the added stop arms 7.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Underwood whose telephone number is 571-272-6933. The examiner can normally be reached on Mon-Thursday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Donald Underwood/
Primary Examiner, Art Unit 3652

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